FEDERAL REGISTER

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Washington, Saturday, August 19, 1939

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[P-6]

PART 741—1939 PRICE ADJUSTMENT PROGRAM REGULATIONS

SUPPLEMENT NO. 5

By virtue of the authority vested in the Secretary of Agriculture by the Price Adjustment Act of 1938, approved June 21, 1938 (Title V of Public Res. No. 122, 75th Congress; 52 Stat. 819), and pursuant to the provisions of Sections 301 and 303 of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 3d Session; 52 Stat. 43, 45), and the second paragraph of Section 15 of the Soil Conservation and Domestic Allotment Act, as amended by Section 104 of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, 3d Session; 52 Stat. 35), the 1939 Price Adjustment Program Regulations, as amended,[1] are hereby further amended as follows:

Section 741.5, as amended by Supplement No. 2 (P-3), is further amended by adding at the end thereof the following:

Provided further, That if for any reason the total acreage of cotton on the farm in 1939 is less than 80 percent of the cotton acreage allotment established for the farm and the acreage of cotton which is or would have been planted for harvest on the farm in 1939 by any tenant or sharecropper is not substantially proportionate to the acreage of cotton which such tenant or sharecropper would normally plant thereon, and all the persons who are or would have been entitled to receive a share of the proceeds of cotton agree, as shown by their signatures on the application for payment or a separate statement, the payment computed for cotton for the farm shall be divided among the landlords, tenants, and sharecroppers in the proportion that the county committee determines such persons would have been entitled to share in the proceeds of the cotton crop if the entire acreage in the cotton acreage allotment had been planted and harvested in 1939, but in no event shall the acreage share so determined for any person be less than such person's acreage share of the acreage planted to cotton on the farm in 1939.

Done at Washington, D. C., this 17th day of August, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-3040; Filed, August 17, 1939; 2:31 p. m.]

[1] 4 F.R. 2912 DI.

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

AGRICULTURAL MARKETING SERVICE

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

AUGUST 17, 1939.

To F. A. BATES,
Doing Business as Thompson Livestock Commission Co., Broken Bow, Nebr.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b)), it has been ascertained by me that the stockyard known as the Thompson Livestock Market at Broken Bow, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U.S.C. Secs. 203 and 207)

[1] Modifies list posted stockyards 9 CFR 204.1.

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FEDERAL REGISTER

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and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3042; Filed, August 17, 1939; 2:31 p. m.]

NOTICE UNDER PACKERS AND STOCKYARDS ACT [1]

AUGUST 17, 1939.

To JOHN BACHMAN and H. C. PETERSON, Partners,
Doing business as Chappell Sales Pavilion, Chappell, Nebr.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b), it has been ascertained by me that the stockyard known as the Chappell Sales Pavilion at Chappell, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U.S.C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3045; Filed, August 18, 1939; 9:23 a. m.]

[1] (Modifies list posted stockyards 9 CFR 204.1)

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 11th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[File No. 21-339]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE MARKING DEVICES INDUSTRY

Promulgation

Due proceedings having been held [1] under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth,[2] which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of August 19, 1939.

Statement by the Commission

Trade Practice Rules for the Marking Devices Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure.

These rules provide for the elimination and prevention of various unfair methods of competition, unfair or deceptive acts or practices, and other trade abuses, and are directed toward promoting and maintaining fair competitive conditions and protection of purchasers and the public interest. They consist of a revision and extension of the rules which had heretofore been issued by the Commission for this industry on September 1, 1933, and take the place of such previously issued rules.

Members of this industry are engaged in the manufacture, sale and distribution of rubber and metallic stamps and dies, numbering and dating machines, stencils and stencil cutting machines, seals and seal presses, and stamped plates, tags, labels, signs, checks, badges and numerous other similar articles and products. According to available estimates, the industry, numbering about a thousand concerns, transacts an aggregate annual volume of business amounting to approximately $15,000,000.

The proceeding for the establishment of trade practice rules was instituted upon application of the industry. In the course thereof a draft of the rules as proposed for the industry was made available upon public notice issued by the Commission to all interested or affected parties, whereby they were afforded opportunity to present their views, including such pertinent information, suggestions or objections as they desired to submit, and to be heard in the premises. Accordingly, public hearing pursuant to such notice was held in Washington on July 27, 1939, and all matters submitted in the proceeding were duly received and considered.

Thereafter, and upon consideration of the entire proceeding, final action was taken by the Commission whereby it approved and received, respectively, the rules appearing herein under Group I and Group II.

THE RULES

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in the Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited, within the purview of the Federal Government, by acts of Congress, as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation or other organization, of such unlawful practices in or directly affecting interstate commerce.

(§ 97.1) RULE 1. *Misbranding.* The false or deceptive marking or branding of products of the industry with respect to the grade, quality, quantity, use, size, material, content, substance, origin, preparation, manufacture or distribution of such products, or in any other material respect, is an unfair trade practice.

(§ 97.2) RULE 2. *Misrepresentation of industry products.* It is an unfair trade practice to make or publish, or cause to be made or published, directly or indirectly, any false, misleading or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, use, size, material, content, substance, origin, preparation, manufacture or distribution of any product of the industry, or in any other material respect.

(§ 97.3) RULE 3. *Misrepresentation as to Character of Business.* For any person, firm or corporation to hold himself or itself out to the public as a manufacturer or wholesaler when such is not the fact, or in any other manner to mis-

[1] 4 F.R. 2951 DI.

[2] These rules supersede the rules previously promulgated for this industry on September 1, 1933.

represent the character, extent or type of his or its business, is an unfair trade practice.

(§ 97.4) RULE 4. *Substitution of products.* The practice of shipping or delivering products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without the consent of the purchasers to such substitutions and with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

(§ 97.5) RULE 5. *Misuse of word "Free".* The use of the word "free", or the equivalent thereof, where not properly or fairly qualified when the article is in fact not free, with the tendency or capacity to mislead or deceive purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

(§ 97.6) RULE 6. *Imitation of trade-marks, etc.* The imitation or simulation of the trade-marks, trade names, labels or brands of competitors, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

(§ 97.7) RULE 7. *False invoicing.* Withholding from or inserting in an invoice, billing or statement any material information by reason of which omission or insertion a false record is made, wholly or in part, of the transaction which such invoice or billing or statement purports to represent, with the effect of thereby misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

(§ 97.8) RULE 8. *False and misleading price quotations.* The publishing or circulating by any member of the industry of false or misleading price quotations, price lists, terms or conditions of sale, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

(§ 97.9) RULE 9. *Inducing breach of contract.* Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

(§ 97.10) RULE 10. *Enticing away employees of competitors.* Wilfully enticing away the employees of competitors, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

(§ 97.11) RULE 11. *Defamation of competitors or disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies or services, or conditions of employment, is an unfair trade practice.

(§ 97.12) RULE 12. *Unfair threats of infringement suits.* The circulation of threats of suit for infringement of patents or trade-marks among customers or prospective customers of competitors, not made in good faith but for the purpose or with the effect of harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

(§ 97.13) RULE 13. *Procurement of competitors' confidential information by unfair means and wrongful use thereof.* It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor, by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained in such a manner as to injure said competitor in his business or to suppress competition or unreasonably restrain trade.

(§ 97.14) RULE 14. *Commercial bribery.* It is an unfair trade practice for a member of the industry directly or indirectly to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees or representatives of customers or prospective customers, or to agents, employees or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors.

(§ 97.15) RULE 15. *Coercing purchase of one product as a prerequisite to the purchase of other products.* The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice.

(§ 97.16) RULE 16. *Consignment shipping.* It is an unfair trade practice for any member of the industry to use the practice of shipping goods to dealers or distributors on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade: *Provided, however,* That nothing herein shall be construed or used as restricting or preventing consignment shipping or marketing of commodities in good faith, and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

(§ 97.17) RULE 17. *Selling below cost.* The practice of selling industry products below the seller's cost, when pursued with wrongful intent of thereby injuring a competitor and where the effect of such practice is to unreasonably restrain trade, tend to create a monopoly, or substantially lessen competition, is an unfair trade practice.

This rule is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued as a monopolistic practice with the wrongful intent referred to and coupled with the effect of unreasonably restraining trade, tending to create a monopoly or substantially lessening competition. Sales below cost by a competitor not in a sufficiently strong competitive position to produce, and not actually producing, the monopolistic or restraining effect mentioned, do not fall within the inhibitions of this rule.

The costs referred to in the rule are actual costs of the respective seller and not some other figure or average costs in the industry, determined by an industry cost survey or otherwise.

(§ 97.18) RULE 18. *Unlawful interference.* It is an unfair trade practice for any member of the industry, by means of any monopolistic practices, or through combination, conspiracy, coercion, boycott, threats or any other unlawful means, directly or indirectly, to interfere with a competitor's right to purchase his materials and supplies from whomsoever he chooses, or to sell to whomsoever he chooses.

(§ 97.19) RULE 19.—(a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc.,*[1] *which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of

[1] Paragraph (a) of Rule 19 shall not be construed as embracing practices prohibited by paragraphs (b), (c) and (d) of this rule.

price differential,[1] where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[2] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[2] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[2] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce[2], in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce,[2] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce[2] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce[2], in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this Rule 19.

(§ 97.20) RULE 20. *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm or corporation to aid, abet, coerce or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in these rules.

Group II

Compliance with the trade practice provisions embraced in these Group II rules is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. Where, however, the practice of not complying with any such Group II rules is followed in such manner as to result in unfair methods of competition, or unfair or deceptive acts or practices, corrective proceedings may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. *Publication of price lists.* The industry approves the practice of each individual member of the industry independently publishing and circulating to the purchasing trade his own price lists fully setting forth his terms of sale.

RULE B. *Return of merchandise.* The practice, by members of the industry, of selling merchandise and later permitting the purchaser to return it for credit or refund of purchase price, without just cause, creates waste and loss, increases the cost of doing business to the detriment of both the industry and the public, and is condemned by the industry, subject, however, to the general limitation that members of the industry shall not engage in any combination or conspiracy in restraint of trade or use any other illegal methods in the regulation, control or prevention of the return of merchandise.

RULE C. *Repudiation of contracts.* Lawful contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market, or by buyers on a declining market, is condemned by the industry.

RULE D. *Arbitration.* The industry approves the practice of handling business disputes between members of the industry and their customers in a fair and reasonable manner, coupled with a spirit of moderation and good will, and every effort should be made by the disputants themselves to compose their differences. If unable to do so they should, if possible, submit these disputes to arbitration.

Promulgated and issued by the Federal Trade Commission as of August 19, 1939.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3047; Filed, August 18, 1939; 9:27 a. m.]

[Docket No. 3743]

IN THE MATTER OF VAN PRODUCTS COMPANY

§ 3.6 (n) (2) *Advertising falsely or misleading—Nature—Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase of respondent's "No-No Germ Control", or other similar medicinal preparation, which advertisements represent, directly or through implication, that said medicinal preparation will kill germs which cannot be reached by powder or liquid preparations, or will kill all germs, or is a germicide; will prevent pregnancy or is a competent and effective contraceptive; is non-irritating to the genital organs and odorless; will clear the nasal passages or reduce swollen membrances or clear away mucous, or is an effective treatment for head colds or hay fever, or will remove

[2] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That this not apply to the Philippine Islands.

calluses or bunions or relieve pains caused thereby; or which fail to reveal that said preparation is not a wholly safe drug to be used by the lay public in self-medication; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Van Products Company, Docket 3743, August 12, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF LEON E. VAN LAETHEM, AN INDIVIDUAL, TRADING AS VAN PRODUCTS COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Leon E. Van Laethem, individually, and trading as Van Products Company, his representatives, agents and employees, directly, or through any corporate or other device, do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisements by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of a medicinal preparation containing drugs now designated by the name of "No-No Germ Control," or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or any other name or names, or disseminating or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said medicinal preparation which advertisements represent directly or through implication that said medicinal preparation will kill germs which cannot be reached by powder or liquid preparations, or will kill all germs, or is a germicide; that said preparation will prevent pregnancy or is a competent and effective contraceptive; that said preparation is non-irritating to the genital organs and odorless; that said preparation will clear the nasal passages or reduce swollen membranes or clear away mucous, or is an effective treatment for head colds or hay fever; that said preparation will remove calluses or bunions or relieve pains caused thereby; or which advertisements fail to reveal that said preparation is not a wholly safe drug to be used by the lay public in self-medication.

It is further ordered, That the respondent shall within sixty (60) days after the service upon him of this order file with the Commisison a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-3046; Filed, August 18, 1939; 9:27 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49935]

TEMPORARY FREE IMPORTATIONS, AUTOMOBILES AND SIMILAR VEHICLES

ADMISSION FOR SIX MONTHS UNDER PERMIT WITHOUT BOND AUTHORIZED FOR AUTOMOBILES, MOTORCYCLES, BICYCLES, CARRIAGES AND TEAMS FROM CANADA

To Collectors of Customs and Others Concerned:

Pursuant to section 308 (5) of the Tariff Act of 1930, as amended by section 4 of the Customs Administrative Act of 1938 (U.S.C., Sup. IV, title 19, sec. 1308 (5)), and article 477 (b) of the Customs Regulations of 1937, as amended by (1938) T. D. 49658,[1] collectors of customs are hereby authorized to defer for a period of not to exceed six months the requirement of a bond to secure the exportation of automobiles, motorcycles, bicycles, carriages, and teams imported from Canada under the provisions of section 308 (5), supra, for the transportation of the nonresident importer, his family and guests, and such incidental carriage of articles as may be necessary and appropriate to the purposes of the journey, but not to be used for the transportation of persons or articles for hire, nor in any case primarily for the carriage of articles.

The part of (1938) T. D. 49664,[2] limiting the foregoing privilege to "automobiles and similar vehicles imported under such section 308 (5) solely for touring purposes", is hereby superseded so far as it relates to vehicles from Canada.

[SEAL] W. R. JOHNSON, *Acting Commissioner of Customs.*

Approved, August 15, 1939.

STEPHEN B. GIBBONS, *Acting Secretary of the Treasury.*

[F. R. Doc. 39-3043; Filed, August 17, 1939; 3:26 p. m.]

[1] 3 F.R. 1808 DI.
[2] 3 F.R. 1933 DI.

Notices

DEPARTMENT OF AGRICULTURE.

Division of Marketing and Marketing Agreements.

[Docket No. A-107 O-107]

NOTICE OF HEARING WITH RESPECT TO PROPOSAL TO AMEND ORDER NO. 27 AND MARKETING AGREEMENT NO. 80, REGULATING HANDLING OF MILK IN NEW YORK METROPOLITAN MARKETING AREA

Whereas under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture, hereinafter called the Secretary, issued Order No. 27[1] regulating the handling of milk in the New York metropolitan marketing area, effective 12:01 a. m., e. s. t., September 1, 1938; and

Whereas the Secretary on September 17, 1938, approved a marketing agreement regulating the handling of milk in the New York metropolitan marketing area, effective 12:01 a. m., e. s. t., September 1, 1938; and

Whereas the Secretary on March 18, 1939,[2] suspended the said marketing agreement and the said order, effective 11:59 p. m., e. s. t., January 31, 1939, until further order of the Secretary; and

Whereas the Acting Secretary on June 10, 1939,[3] reinstated Order No. 27, effective July 1, 1939; and

Whereas the Commissioner of Agriculture and Markets of the State of New York made effective on September 1, 1938, Order No. 126 regulating the handling of milk in the New York metropolitan marketing area, to which Order No. 27 is complementary; and

Whereas the Metropolitan Cooperative Milk Producers' Bargaining Agency and others have petitioned the Secretary and the Commissioner for a public hearing on certain amendments to Order No. 27 and to Order No. 126; and

Whereas the Secretary has reason to believe that the declared policy of the act will be effectuated by holding a hearing on the said proposed amendments and to review present marketing conditions in the New York milkshed to deter-

[1] 3 F.R. 1945 DI.
[2] 4 F.R. 1259 DI.
[3] 4 F.R. 2377 DI.

mine what amendments, if any, should be made to Order No. 27 and what the provisions of a marketing agreement, regulating the handling of milk in the New York metropolitan marketing area in the same manner as Order No. 27, should be:

Now, therefore, pursuant to the aforesaid act and general regulations issued thereunder, notice is hereby given of a hearing to be held jointly with the Commissioner of Agriculture and Markets of the State of New York on a proposal to amend the Class I, Class II–A, Class II–B, and Class III–B price provisions of Order No. 27 and of the marketing agreement regulating the handling of milk in the New York metropolitan marketing area, beginning 10:00 a. m., August 24, 1939, in Lincoln Auditorium, Central High School, Syracuse, New York, and at 10:00 a. m., August 25, 1939, in Room No. 500, State Office Building, 80 Centre Street, New York City.

This public hearing is for the purpose of receiving evidence as to present conditions affecting the New York metropolitan marketing area on which the Secretary may determine what changes, if any, need to be made in the said price provisions of Order No. 27 and of the marketing agreement.

Copies of the proposed amendments prepared as a basis for the public hearing may be procured from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Room 0310 South Building, Washington, D. C., or may be there inspected.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: August 17, 1939.

[F. R. Doc. 39–3041; Filed, August 17, 1939; 2:31 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of August 1939.

[File No. 1–1460]

IN THE MATTER OF SIELOFF PACKING COMPANY COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Sieloff Packing Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the St. Louis Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Monday, September 18, 1939, at the office of the Securities & Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such time and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–3049; Filed, August 18, 1939; 10:48 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of August 1939.

[File No. 1–2730]

IN THE MATTER OF IRON CAP COPPER CORPORATION COMMON STOCK, $10 PAR VALUE 6% NON-CUMULATIVE PREFERRED STOCK, $10 PAR VALUE, AND 7% NON-CUMULATIVE PRIOR PREFERRED STOCK, $10 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The San Francisco Mining Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the above-mentioned securities of Iron Cap Copper Corporation; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of business on September 1, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–3048; Filed, August 18, 1939; 10:48 a. m.]

[1] 4 F.R. 2452 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of August, A. D. 1939.

[File No. 43–195]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF COLORADO

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party; and having been subsequently amended

It is ordered, That a hearing on such matter be held on August 24, 1939, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 22, 1939.

The matter concerned herewith is in regard to the proposed issue and sale by the Declarant of the following securities: (a) $40,000,000 principal amount of the Declarant's First Mortgage Bonds, 3½% Series, due 1964; (b) $12,500,000 principal amount of the Declarant's 4% Debentures, due 1949; (c) $2,190,000 principal amount of the Declarant's Common Stock ($100 par value).

By recent amendment to the declaration Declarant proposes to issue and sell $2,190,000 principal amount of Declarant's Common Stock ($100 par value) instead of 21,900 shares of First Preferred, 5% Cumulative ($100 par value) which Declarant earlier proposed to issue and sell. The 21,900 shares of Common Stock will be issued and sold to Cities Service Power and Light, the parent company of Declarant and the proceeds of such issue and sale will be used to retire and discharge Declarant's indebt-

edness of $2,190,000 to said Cities Service Power and Light now evidenced by Declarant's 6% notes.

The hearing will supplement hearings heretofore held and adjourned subject to the call of the Examiner. The hearings were held pursuant to order dated April 5, 1939 to which reference is made for more complete statements as to the proposed issue.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3050; Filed, August 18, 1939; 10:48 a. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS TUESDAY, AUGUST 15, 1939

Important. Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Virgin Islands	9	0
2. Puerto Rico	623	42
3. Hawaii	149	17
4. California	2,290	803
5. Alaska	24	9
6. Texas	2,349	930
7. Michigan	1,953	924
8. Louisiana	848	405
9. Arizona	176	89
10. New Jersey	1,630	885
11. South Carolina	701	403
12. Ohio	2,681	1,611
13. Mississippi	811	496
14. Oklahoma	966	591
15. Alabama	1,067	667
16. New Mexico	171	107
17. Arkansas	748	479
18. Georgia	1,173	775
19. Kentucky	1,054	708
20. North Carolina	1,279	892
21. Tennessee	1,055	814
22. Illinois	3,077	2,375
23. Wisconsin	1,185	926
24. Connecticut	648	519
25. Indiana	1,306	1,139
26. Delaware	96	85
27. Nevada	37	33
28. Oregon	385	347
29. Florida	592	546
30. Idaho	179	169
31. New Hampshire	188	179
32. Pennsylvania	3,884	3,741
33. New York	5,077	4,953
34. Maine	322	319
35. West Virginia	697	691
36. Colorado	418	416
37. Massachusetts	1,714	1,707
QUOTA FILLED		
38. Wyoming	91	91
IN EXCESS		
39. Missouri	1,464	1,466
40. Washington	630	632
41. Vermont	145	146
42. Utah	205	210
43. Montana	217	231
44. Kansas	759	818
45. Rhode Island	277	303
46. South Dakota	279	311
47. North Dakota	275	307
48. Minnesota	1,034	1,173
49. Iowa	996	1,134
50. Nebraska	556	694
51. Virginia	977	2,042
52. Maryland	658	2,069
53. District of Columbia	196	8,899

		Net gain or loss since July 1, 1939
		−15
		−8
		−1
		+6
		−2
		−3
		−3
		−1
		−4
		−6
		−5
		+8
		+1
		+20
		+14

GAINS	
By appointment	142
By reinstatement	5
By transfer	15
Total	162
LOSSES	
By separation	41
By transfer	34
By correction	1
Total	76
Total appointments	50,318

NOTE: Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's Opinion of Aug. 25, 1934, 15,434.

By direction of the Commission:

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 39-3044; Filed, August 18, 1939; 9:07 a. m.]